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United States Department of Agriculture,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.

SUPPLEMENT.

N. J. 6151-6200.

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 8, 1918.]

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

6151. Alleged adulteration and misbranding of compound essence grape. U. S. * * * v. Joseph L. Schider (Jos. L. Schider & Co.). Decision of the Supreme Court of the United States reversing judgment of the lower court which sustained a demurrer to the indictment. (F. & D. No. 7805. I. S. No. 12349-K.)

On February 14, 1917, the grand jurors of the United States within and for the Southern District of New York, acting upon a report by the Secretary of Agriculture, upon presentment by the United States attorney for the district aforesaid, returned an indictment against Joseph L. Schider, trading as Jos. L. Schider & Co., New York, N. Y., charging shipment by said defendant, in violation of the Food and Drugs Act, on February 25, 1914, from the State of New York into the State of Virginia, of a quantity of an article labeled in part, "Compound Ess Grape, Jos. L. Schider & Co., 93–95 Maiden Lane, New York," which was alleged to have been adulterated and misbranded.

Analysis of the sample of the article by the Bureau of Chemistry of this department showed the following results:

Oil by volume (per cent).....13.5

This product is an alcoholic solution of essential oils, which appear to be amyl acetate and methyl-amido-ortho-benzoate. The precipitated oil has a strong blue fluoresence and formed a white sulphate compound in dry ether solution with sulphuric acid. The odor of a dilute solution of this sample suggests the flavor of grapes.

Adulteration of the article was charged in the indictment for the reason that an imitation grape essence, artificially prepared from alcohol, water, and synthetically produced imitation essential oils, had been mixed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been wholly substituted for a true grape product, which the article purported to be.

Misbranding of the article was charged for the reason that the statement, "Ess Grape," appearing on the label, regarding the article and the ingredients and sub-

stances contained therein, was false and misleading in that it indicated that the article was a true product of the grape; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was a true product of the grape, whereas, in truth and in fact, it was not, but was an imitation grape essence, artificially prepared from alcohol, water, and synthetically produced imitation essential oils, and contained no product of the grape. Misbranding of the article was charged for the further reason that the label bore the statement, "Compound Ess Grape," regarding the ingredients and substances contained in the article, which statement was false and misleading in that it indicated that a true grape product was an ingredient and substance contained in the article, whereas, in truth and in fact, a true grape product was not an ingredient or substance contained therein, but the article consisted of an imitation grape essence, artificially prepared from alcohol, water, and synthetically produced imitation essential oils. Misbranding of the article was charged for the further reason that it purported to be a true product of the grape, whereas, in truth and in fact, it was an imitation thereof, artificially prepared from alcohol, water, and synthetically produced imitation essential oils, and the word, "imitation," was not stated on the bottle in which the article was offered for sale. It was further presented in the indictment that the article contained no added poisonous or deleterious ingredient.

On February 23, 1917, the defendant filed his demurrer to the indictment, and on February 24, 1917, the court sustained the demurrer.

On March 16, 1917, a petition for a writ of error to the Supreme Court of the United States was filed and thereafter allowed.

On April 15, 1918, the case having come on for final disposition before the Supreme Court of the United States, the judgment of the trial court in sustaining the demurrer was reversed and the cause remanded for further proceedings, as will more fully appear from the following decision of the court. Mr. Justice McReynolds delivered the opinion of the court.

An indictment containing six counts charged defendant, Schider, with violating the Food and Drugs Act of June 30, 1906 (34 Stat. 768), by delivering for shipment in interstate commerce food contained in a bottle plainly labeled as follows: "Compound Ess Grape Jos. L. Schider & Co. 93–95 Maiden Lane, New York."

Each count alleges the article was an imitation of grape essence artificially prepared from alcohol, water, and synthetically produced imitation oils, and contained no product of the grape nor any added poisonous or deleterious ingredient; and that the word, "imitation," nowhere appeared.

The first count further alleged that it was "unlawfully adulterated in that an imitation grape essence artificially prepared from alcohol, water, and synthetically produced imitation essential oils had been wholly substituted for a true grape product, which the article purported to be"; and the second that it was "unlawfully adulterated in that an imitation grape essence artificially prepared from alcohol, water, and synthetically produced imitation essential oils, had been mixed with the said article so as to reduce and lower and injuriously affect the quality and strength of the said article."

The third, fourth, fifth, and sixth counts, in varying ways, further alleged misbranding so as to deceive and mislead in that the label indicated a true grape product, whereas the article was not such but an imitation artificially prepared, one which contained nothing from grapes.

The trial court sustained a demurrer to each count upon the view that, properly construed, the Food and Drugs Act did not apply to facts stated.

Pertinent portions of the Act follow:

"SEC. 7. That for the purposes of this act an article shall be deemed to be adulterated * * *

"First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

"Second. If any substance has been substituted wholly or in part for the article.

"SEC. 8. That the term 'misbranded,' as used herein, shall apply to all drugs, or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in

any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

"That for the purposes of this act an article shall also be deemed to be misbranded * * *

"First. If it be an imitation of or offered for sale under the distinctive name of another article.

"Second. If it be labeled or branded so as to deceive or mislead the purchaser, * * *

"Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular: *Provided*, That an article of food which does not contain any added poisonous or deleterious ingredients, shall not be deemed to be adulterated or misbranded in the following cases * * * Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word 'compound,' 'imitation,' or 'blend,' as the case may be, is plainly stated on the package in which it is offered for sale: * * * (34 Stat., c. 3915, pp. 768, 770-771)."

The obvious and undisputed purpose and effect of the label was to declare the bottled article a compound essence of grape. In fact, it contained nothing from grapes and was a mere imitation.

Within the statute's general terms the article must be deemed adulterated since some other substance had been substituted wholly for the one indicated by the label; and, also, it was misbranded, for the label carried a false and misleading statement.

Defendant relies on the proviso in section 8 which declares articles of food shall not be deemed adulterated or misbranded if they are "labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word 'compound,' 'imitation,' or 'blend,' as the case may be, is plainly stated on the package in which it is offered for sale." But we are unable to conclude that by simply using "compound" upon his label a dishonest manufacturer exempts his wares from all inhibitions of the statute and obtains full license to befool the public. Such a construction would defeat the highly beneficent end which Congress had in view.

We have heretofore said: "The purpose of the act is to secure the purity of food and drugs and to inform purchasers of what they are buying. Its provisions are directed, to that purpose and must be construed to effect it." (*United States* v. *Antikamnia Co.* 231 U. S. 654, 665.) "The legislation, as against misbranding, intended to make it possible that the consumer should know that an article purchased was what it purported to be; that it might be bought for what it really was and not upon misrepresentations as to character and quality." (*United States* v. *Lexington Mill Co.*, 232 U. S. 399, 409. And see *United States* v. *Coca Cola Co.*, 241 U. S. 265, 277.)

The stuff put into commerce by defendant was an "imitation," and if so labeled purchasers would have had some notice. To call it "compound essence of grape" certainly did not suggest a mere imitation, but on the contrary falsely indicated that it contained something derived from grapes. (See *Frank* v. *United States*, 192 Fed. 864.) The statute enjoins truth; this label exhales deceit.

The trial court erred in sustaining the demurrer. Its judgment is reversed and the cause remanded for further proceedings in accordance with this opinion.

Reversed and remanded.

CARL VROOMAN,
Acting Secretary of Agriculture.

6152. Adulteration of eggs. U. S. * * * v. E. A. Burch and I. S. Dunn (Burch & Dunn). Pleas of guilty. Fine, $25. (F. & D. No. 7856. I. S. No. 1653-m.)

On April 7, 1917, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against E. A. Burch and I. S. Dunn, trading as Burch & Dunn, Waterview, Va., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about September 13, 1916, from the State of Virginia into the State of Maryland, of a quantity of shell eggs which were adulterated.

Examination of the article, which consisted of 1 case of 30 dozen eggs, by the Bureau of Chemistry of this department, showed 154, or 42.8 per cent, of inedible eggs.

Adulteration of the article was alleged in the information for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On October 1, 1917, the defendants entered pleas of guilty to the information, and the court imposed a fine of $25.

CARL VROOMAN,
Acting Secretary of Agriculture.

6153. Adulteration of shell eggs. U. S. * * * v. Missouri Valley Ice & Cold Storage Co., a corporation. Plea of guilty. Fine, $10 and costs. (F. & D. No. 7857. I. S. No. 11434-m.)

On March 30, 1917, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Missouri Valley Ice & Cold Storage Co., a corporation, Missouri Valley, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 9, 1916, from the State of Iowa into the State of Nebraska, of a quantity of shell eggs which were adulterated.

Examination of the article by the Bureau of Chemistry of this department showed the shipment to consist almost entirely of inedible or doubtful eggs.

Adulteration of the article was alleged in the information for the reason that it consisted in part of a filthy, decomposed, or putrid animal substance.

On February 26, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6154. Misbranding of cottonseed meal. U. S. * * * v. Mount Pleasant Oil Mill Co., a corporation. Plea of guilty. Fine, $50 and costs. (F. & D. No. 7869. I. S. No. 19980-l.)

On April 21, 1917, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Mount Pleasant Oil Mill Co., a corporation, Mount Pleasant, Tex., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 29, 1916, from the State of Texas into the State of Michigan, of a quantity of an article labeled in part, "Sunset Brand Prime Cotton Seed Meal and Cake," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Crude fiber (per cent)	11.9
Protein (per cent)	39.3
Nitrogen (per cent)	6.29
Ammonia (per cent)	7.65

The product contains less ammonia, less protein, less nitrogen, and more fiber than it is labeled to contain.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Guaranteed Analysis: Ammonia, 8 to 8½%—(Not less than 8%) Protein,—41 to 43%—(Not less than 41%) * * * Nitrogen, 6½ to 8%—(Not less than 6½%) * * * Fibre, (Maximum) 8 to 10% (Not more than 10%)," borne on the tags attached to the sacks regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 8 per cent of ammonia, not less than 41 per cent of protein, not less than 6½ per cent of nitrogen, and not more than 10 per cent of fiber, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 8 per cent of ammonia, not less than 41 per cent of protein, not less than 6½ per cent of nitrogen, and not more than 10 per cent of fiber, whereas, in truth and in fact, it contained less ammonia, protein, and nitrogen, and more fiber, than was declared on the tags, to wit, approximately 7.65 per cent of ammonia, approximately 39.3 per cent of protein, approximately 6.29 per cent of nitrogen, and approximately 11.9 per cent of fiber.

On November 5, 1917, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $50 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6155. Adulteration and misbranding of Liebig malt extract. U. S. * * * v. Johann Hoff Co., a corporation. Plea of guilty. Fine, $30. (F. & D. No. 7874. I. S. No. 2657-l.)

On May 2, 1917, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Johann Hoff Co., a corporation, doing business at Newark, N. J., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 24, 1916, from the State of New Jersey into the State of New York, of a quantity of an article labeled in part, "Genuine Liebig Malt-Extract," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Solids at 100° C. (gram per 100 cc)	7.32
Ash (gram per 100 cc)	.185
Phosphoric acid (P_2O_5) (grams per 100 cc)	.042
Starch test for diastase: Negative.	
Guiac test for diastase: Negative.	
Alcohol (per cent by volume)	3.00
Protein (N x 6.25) (gram per 100 cc)	.57

The product has the consistency of a heavy beer with about 7 per cent of solid matter. The material which makes up the solid matter is not derived entirely from malt, but from a mixture of malt and a cereal or saccharine substitute.

Adulteration of the article was alleged in the information for the reason that a substance other than malt, to wit, a cereal product or a saccharine product, had been mixed and packed therewith, so as to lower or reduce and injuriously affect its quality and strength, and had been substituted in whole or in part for malt extract, which the article purported to be. Adulteration of the article was alleged for the further reason that it was sold under and by a name recognized in the United States Pharmacopœia, and differed from the standard of strength, quality, and purity, as determined by the test laid down in said Pharmacopœia, official at the time of the investigation of the article, in that it was composed of malt and a cereal product, or a saccharine product other than malt, whereas said Pharmacopœia provides that extract of malt should consist only of malt and water, and the standard of strength, quality, and purity of the article was not declared on the container thereof.

Misbranding of the article was alleged for the reason that the statements, to wit, "Malt Extract" and "Rich in Natural Diastase," borne on the label attached to the bottles, regarding the article and the ingredients and substances contained therein, were false and misleading in that they represented that the article was pure malt extract and that it was rich in natural diastase; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the article was pure malt extract and that it was rich in natural diastase, whereas, in truth and in fact, it was not pure malt extract and was not rich in natural diastase, but was a product other than pure malt extract rich in natural diastase, to wit, a product prepared in part from a cereal product other than malt, or a saccharine product which contained no diastase.

On February 4, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $30.

CARL VROOMAN,
Acting Secretary of Agriculture.

6156. Adulteration of sardines. U. S. * * * v. 100 Cases of Sardines. Good portion ordered released on bond. Unfit portion ordered destroyed. (F. & D. No. 7899. I. S. No. 1390-m. S. No. E-764.)

On December 4, 1916, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 cases of sardines, consigned on or about November 16, 1916, remaining unsold in the original unbroken packages at Phillipsburg, Pa., alleging that the article had been shipped by Mawhinney & Ramsdell, Lubec, Me., and transported from the State of Maine into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On August 29, 1917, the said Mawhinney & Ramsdell, claimants, having admitted the allegations of the libel and consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released to said claimants upon the payment of the costs of the proceedings and the execution of a bond in the sum of $500, in conformity with section 10 of the act, conditioned in part that the product should be examined by a representative of this department and that the portion found to be adulterated should be destroyed and the portion found to be free from adulteration should be forthwith delivered to said claimants.

CARL VROOMAN,
Acting Secretary of Agriculture.

6157. Adulteration of water. U. S. * * * v. 352 Cases of Crazy Well Water. Product ordered destroyed. (F. & D. No. 7943. I. S. Nos. 21719-m, 21720-m, 21722-m, 21723-m. S. No. W-157.)

On January 3, 1917, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 352 cases of Crazy Well water, remaining unsold in the original unbroken packages at Los Angeles, Cal., alleging that the article had been shipped on or about June 3, 1916, by the Crazy Well Water Co., Mineral Wells, Tex., from Weatherford, Tex., and transported from the State of Texas into the State of California, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in part of a filthy and decomposed animal and vegetable substance, and was polluted and unfit for human consumption.

On February 19, 1917, the case having come on for hearing on the pleadings, it was ordered by the court that the product should be destroyed by the United States marshal, and that the empty containers should be returned to said Crazy Well Water Co., claimant, upon the payment of the costs of the proceedings.

CARL VROOMAN,
Acting Secretary of Agriculture.

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6158. Misbranding of jam compounds. U. S. * * * v. L. Jacob Dawson and Derwood Dawson (Dawson Brothers Manufacturing Co.). Pleas of guilty. Fine, $100 and costs. (F. & D. No. 8001. I. S. Nos. 3638-l, 3639-l, 3640-l, 4478-l, 4479-l, 4480-l.)

On March 17, 1917, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against L. Jacob Dawson and Derwood Dawson, doing business as Dawson Brothers Manufacturing Co., Atlanta, Ga., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, on or about February 18, 1916, from the State of Georgia into the State of Florida, of quantities of jam labeled in part, "Net weight 10 ounces Blackberry," "Net weight 8 ozs. or over Raspberry," "Average net weight 10 ounces Black Raspberry," and on or about March 27, 1916, from the State of Georgia into the State of South Carolina, of quantities of jam labeled in part, "Net weight 10 ounces Raspberry," "Net weight 10 ounces Blackberry," and "Average net weight 10 ozs. or over Plum."

Examination of samples of the article by the Bureau of Chemistry of this department showed the following results:

	Ounces.
Shipment of February 18:	
"Net weight 10 ounces Blackberry"	6.84 7.70
"Net weight 8 ozs. or over Raspberry"	7.82 7.38
"Average net weight 10 ounces Black Raspberry"	8.57 6.96
Shipment of March 27:	
"Net weight 10 ounces Raspberry"	7.78 8.05
"Net weight 10 ounces Blackberry"	7.76 7.71
"Average net weight 10 ozs. or over Plum"	7.49 7.79

Misbranding of the articles was alleged in substance in the information for the reason that the statements concerning the article and the ingredients and substances contained therein, appearing on the label, to wit, "Net weight 10 ounces Blackberry," "Net weight 8 ounces or over Raspberry," "Average net weight 10 ounces Black Raspberry," "Net weight 10 ounces Raspberry," "Net weight 10 ounces Blackberry," and "Average net weight 10 ounces or over Plum," were false and misleading in that they represented to purchasers that each individual jar or glass of the article contained not less than 10 ounces thereof, or 8 ounces thereof, as the case might be, and for the further reason that they were labeled as aforesaid so as to deceive and mislead purchasers into the belief that each individual jar or glass contained not less than 10 ounces of the same, or 8 ounces of the same, as the case might be, whereas, in truth and in fact, they did not, but contained a less quantity than 10 ounces thereof, or 8 ounces thereof, as the case might be.

Misbranding of the article in each shipment was alleged in substance for the reason that although it was food in package form, the quantity of the contents thereof was not plainly or conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

On March 29, 1918, the defendants entered pleas of guilty to the information, and the court imposed a fine of $100 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6159. Adulteration of eggs. U. S. * * * v. Remus A. Beach. Plea of guilty. Fine, $5 and costs. (F. & D. No. 8024. I. S. No. 10815-m.)

On March 22, 1917, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Remus A. Beach, Bloomfield, Nebr., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about August 8, 1916, from the State of Nebraska into the State of Iowa, of a quantity of eggs which were adulterated.

Examination of the article, which consisted of 3 cases, or 1,080 eggs, by the Bureau of Chemistry of this department showed 262, or 24.25 per cent, of inedible eggs.

Adulteration of the article was alleged in the information for the reason that it consisted in part of a filthy, decomposed, and putrid animal substance.

On September 17, 1917, the defendant entered a plea of guilty to the information, and the court imposed a fine of $5 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6160. Adulteration of eggs. U. S. * * * v. The White Produce Co., a corporation. Tried to the court and a jury. Verdict of guilty by direction of the court. Fine, $25 and costs. (F. & D. No. 8018. I. S. No. 10720-m.)

On May 1, 1917, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The White Produce Co., a corporation, Denison, Tex., alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 10, 1916, from the State of Texas into the State of Kansas, of a quantity of eggs which were adulterated.

Examination of the article, which consisted of 1 case of 30 dozen eggs, by the Bureau of Chemistry of this department showed 266, or 73.8 per cent, of inedible eggs.

Adulteration of the article was alleged in the information for the reason that it consisted in whole or in part of a filthy, putrid, and decomposed animal substance.

On January 8, 1918, the case having come on for trial before the court and a jury, after the submission of evidence, the jury returned a verdict of guilty by direction of the court, and thereupon the court imposed a fine of $25 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6161. Misbranding of cottonseed meal. U. S. * * * v. Apache Cotton Oil & Manufacturing Co., a corporation. Plea of guilty. Fine, $25. (F. & D. No. 8077. I. S. No. 16055-l.)

On July 17, 1917, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Apache Cotton Oil & Manufacturing Co., Chickasha, Okla., alleging a shipment by said company, on or about March 2, 1916, from the State of Oklahoma into the State of Iowa, of a quantity of an article labeled in part, "Owl Brand High Grade Cotton Seed Meal," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Crude fiber (per cent)	12.6
Nitrogen (per cent)	6.22
Ammonia (per cent)	7.56
Protein (N × 6.25) (per cent)	38.9

These results show that this sample contains more crude fiber and less nitrogen, ammonia, and protein than declared on the label.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "High Grade Cotton Seed Meal * * * Protein 41% * * * minimum * * * frequently runs higher, * * * Fibre, maximum 10%," borne on the tag attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 41 per cent of protein and not more than 10 per cent of fiber; and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that it contained not less than 41 per cent of protein and not more than 10 per cent of fiber, whereas, in truth and in fact, it contained less than 41 per cent of protein and more than 10 per cent of fiber, to wit, approximately 38.9 per cent of protein and approximately 12.6 per cent of fiber.

On May 4, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $25.

CARL VROOMAN,
Acting Secretary of Agriculture.

6162. Adulteration and misbranding of so-called Ceylon tea. U. S. * * * v. Consolidated Tea Co., a corporation. Plea of guilty. Fine, $25. (F. & D. No. 8078. I. S. No. 623-l.)

On May 8, 1917, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Consolidated Tea Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on May 26, 1916, from the State of New York into the State of New Jersey, of a quantity of an article labeled in part, "White Lily Ceylon Tea," which was adulterated and misbranded.

Examination of a sample of the article by the Bureau of Chemistry of this department indicated that it contained a combination of either Ceylon or India teas, possibly both, together with approximately one-third of Congou tea.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, a mixture composed of tea other than Ceylon tea, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality, and had been substituted in part for Ceylon tea, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "Ceylon Tea," borne on the label attached to the package, regarding the article and the ingredients and substances contained therein, was false and misleading in that it indicated that the article consisted wholly of Ceylon tea; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of Ceylon tea, whereas, in truth and in fact, it did not, but consisted in part of tea other than Ceylon tea.

On February 20, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $25.

CARL VROOMAN,
Acting Secretary of Agriculture.

6163. Adulteration and misbranding of dairy feed. U. S. * * * v. Globe Elevator Co., a corporation. Plea of guilty. Fine, $150. (F. & D. No. 8089. I. S. No. 3005-m.)

On February 5, 1918, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Globe Elevator Co., a corporation, Buffalo, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 21, 1916, from the State of New York into the State of Connecticut, of a quantity of an article labeled in part, "Anchor Dairy Feed," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Fat (per cent)	2.34
Protein (N × 6.25) (per cent)	11.95

Microscopic examination: No cottonseed detected.

Adulteration of the article was alleged in the information for the reason that a mixture which contained less than 16 per cent of crude protein, less than 3½ per cent of crude fat, and which contained no cottonseed meal, had been substituted in part for a product composed in part of protein, 16 to 18 per cent, crude fat 3½ to 5½ per cent, and cottonseed meal which the article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "Crude Protein 16 to 18 per cent, Crude Fat 3½ to 5½ per cent, Ingredients—Cottonseed Meal," borne on the tags attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 16 per cent of crude protein, not less than 3½ per cent of crude fat, and contained as an ingredient cottonseed meal; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 16 per cent of crude protein, not less than 3½ per cent of crude fat, and that it contained as an ingredient cottonseed meal, whereas, in truth and in fact, it contained less crude protein and crude fat than was declared on the label, to wit, 11.95 per cent of crude protein and 2.34 per cent of crude fat, and contained no cottonseed meal.

On February 26, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $150.

CARL VROOMAN,
Acting Secretary of Agriculture.

6164. Misbranding of clams. U. S. * * * v. Stockton Canning Co., a corporation. Plea of nolo contendere. Fine, $75. (F. & D. No. 8104. I. S. Nos. 2812-m, 2813-m.)

On May 7, 1917, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Stockton Canning Co., a corporation, Eastport, Me., alleging shipment by said company, in violation of the Food and Drugs Act as amended, on or about September 23, 1916, and September 18, 1916, from the State of Maine into the State of Massachusetts, of quantities of articles labeled in part, "Gorton's Silver Shell Clams, average net weight 8 ounces," and "North Shore Brand Clams, 5 ounces net," which were misbranded.

Examination of samples of the articles by the Bureau of Chemistry of this department showed the following results:

Shipment labeled "average net weight 8 ounces."

Gross.	Tare.	Net.
Ounces.	*Ounces.*	*Ounces.*
10.43	3.26	7.17
10.68	3.26	7.42
10.83	3.10	7.73
10.07	3.30	6.77
10.46	3.22	7.24
10.06	3.24	6.82
10.70	3.19	7.51
10.83	3.08	7.75
9.78	3.20	6.58
10.46	3.20	7.26
10.58	3.21	7.37
10.77	3.21	7.56

Average net weight (ounces) 7.27
Average shortage (per cent) 9.1

Shipment labeled "5 ounces net."

Gross.	Tare.	Net.
Ounces.	*Ounces.*	*Ounces.*
7.21	2.39	4.82
6.76	2.42	4.34
6.97	2.42	4.55
6.90	2.42	4.48
6.98	2.39	4.59
6.97	2.42	4.55
6.42	2.41	4.01
7.23	2.36	4.87
7.24	2.35	4.89
6.85	2.47	4.38
7.11	2.40	4.71
6.94	2.53	4.41

Average net weight (ounces) 4.55
Average shortage (per cent) 9.00

Misbranding of the article in each shipment was alleged in the information for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package. Misbranding of the article in the shipment on September 18, 1916, was alleged in substance for the further reason that the statement, to wit, "5 Ounces Net," borne on the label attached to the cans, regarding the article, was false and misleading in that it represented that each can contained five ounces net of the article, whereas, in truth and in fact, it did not, but contained a less amount.

On February 5, 1918, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of $75.

CARL VROOMAN,
Acting Secretary of Agriculture.

6165. Adulteration of tomato paste. U. S. * * * v. Luigi G. Balbi and John Gagliardi) (Luigi G. Balbi & Co.). Pleas of guilty. Fine, $25. (F. & D. No. 8124. I. S. No. 1718-m.

On April 12, 1917, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Luigi G. Balbi and John Gagliardi, trading as Luigi G. Balbi & Co., Matawan, N. J., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about November 1, 1916, from the State of New Jersey into the State of New York, of a quantity of tomato paste which was adulterated.

Examination of samples of the article by the Bureau of Chemistry of this department showed that the product was made from decomposed tomatoes.

Adulteration of the article was alleged in the information for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On February 4, 1918, the defendants entered pleas of guilty to the information, and the court imposed a fine of $25.

CARL VROOMAN,
Acting Secretary of Agriculture.

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6166. Adulteration of tomato pulp. U. S. * * * v. 339 Cans of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8234. I. S. Nos. 1463-m, 1464-m. S. No. E-844.)

On May 3, 1917, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 339 cans, each containing 5 gallons of tomato pulp, consigned on or about March 26, 1917, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by G. J. Biondi Co., Cliffwood, N. J., and transported from the State of New Jersey into the State of Maryland, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted of a filthy, decomposed, and putrid vegetable substance, and further in that the cans were swollen and leaking.

On May 1, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6167. Adulteration and misbranding of so-called pure apple cider vinegar. U. S. * * * v. Derwood Dawson and L. Jacob Dawson (Dawson Bros. Mfg. Co.). Pleas of guilty. Fine, $100 and costs. (F. & D. No. 8235. I. S. No. 4484-L.)

On July 18, 1917, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Derwood Dawson and L. Jacob Dawson, doing business as Dawson Bros. Mfg. Co., Atlanta, Ga., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about April 24, 1916, from the State of Georgia into the State of South Carolina, of a quantity of an article labeled, "Dawson Bros. Mfg. Co., Atlanta, Ga., Southern Beauty Brand Pure Apple Cider Vinegar, Diluted to 4% Acid Strength," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Glycerol (gram per 100 cc)	0.16
Solids (grams per 100 cc)	1.62
Nonsugar solids (grams per 100 cc)	1.15
Reducing sugar after evaporation, before inversion (gram per 100 cc)	.47
Ash (gram per 100 cc)	.26
Ash in nonsugar solids (per cent)	22.6
Acidity, as acetic (grams per 100 cc)	3.96
Fixed acid, as malic (gram per 100 cc)	.03
Alcohol (per cent by volume)	1.3

Analysis indicates added distilled vinegar and mineral matter.

Adulteration of the article was alleged in the information for the reason that substances, to wit, dilute acetic acid or distilled vinegar and mineral matter, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in part for pure apple cider vinegar, which the article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "Pure Apple Cider Vinegar," borne on the label of the article, regarding the ingredients and substances contained therein, was false and misleading in that it represented that the article was pure apple cider vinegar; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure apple cider vinegar, whereas, in truth and in fact, it was not, but was a mixture composed in part of dilute acetic acid or distilled vinegar and mineral matter.

On March 29, 1918, the defendants entered pleas of guilty to the information, and the court imposed a fine of $100 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6168. Adulteration and misbranding of cottonseed meal. U. S. * * * v. Madison Cotton Oil Co., a corporation. Plea of guilty. Fine, $25 and costs. (F. & D. No. 8250. I. S Nos. 3766-l, 3770-l.)

On October 17, 1917, the United States attorney for the Western District of Tennessee, acting upon a report by by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Madison Cotton Oil Co., a corporation, Jackson, Tenn., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 10, 1915, from the State of Tennessee into the State of Connecticut, of a quantity of cottonseed meal which was adulterated, and on or about December 8, 1915, from the State of Tennessee into the State of Maine, of a quantity of cottonseed meal which was misbranded.

Analyses of samples of the article by the Bureau of Chemistry of this department showed the following results:

	Shipment of	
	Dec. 10.	*Dec. 8.*
Crude fiber (per cent)	13.75	14.84
Crude protein (per cent)	37.25	35.81
Total nitrogen (per cent)	5.96	5.73
Total ammonia (per cent)	7.24	6.96

Adulteration of the article in the shipment on December 10, 1915, was alleged in the information for the reason that a certain substance, to wit, a low-grade cottonseed meal, had been substituted for high-grade cottonseed meal, 41 per cent protein, which the article purported to be.

Misbranding of the article in the other shipment was alleged for the reason that the statements concerning the article and the ingredients and substances contained therein, appearing on the label, to wit, "Guaranteed analysis * * * Ammonia, 8%, Protein, 41%, Nitrogen, 6½% * * * . These are mininum guarantees * * * Fiber, maximum 10%," were false and misleading in that they represented to purchasers that the article contained not less than 8 per cent of ammonia, not less than 41 per cent of protein, not less than 6½ per cent of nitrogen, and not more than 10 per cent of fiber; and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that it contained not less than 8 per cent of ammonia, not less than 41 per cent of protein, not less than 6½ per cent of nitrogen, and not more than 10 per cent of fiber, whereas, in truth and in fact, it contained less than 8 per cent of ammonia, less than 41 per cent of protein, less than 6½ per cent of nitrogen, and more than 10 per cent of fiber.

On April 11, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $25 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6169. Misbranding of cottonseed meal. U. S. * * * v. Ralston Purina Co., a corporation. Plea of guilty. Fine, $10 and costs. (F. & D. No. 8256. I. S. No. 19645-m.)

On July 9, 1917, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Ralston Purina Co., a corporation, St. Louis, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 24, 1916, from the State of Missouri into the State of Indiana, of a quantity of an article labeled in part, "Winner Prime Cotton Seed Meal," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Protein (Nx6.25) (per cent)	36.7
Crude fiber (per cent)	13.2

The results of analysis show that the product contains less protein and more fiber than is declared upon the guarantee tag.

Misbranding of the article was alleged in the information for the reason that the statement concerning the article and the ingredients and substances contained therein, to wit, "not less than 38.6% of crude protein, not more than 12.0% of crude fiber," was false and misleading in that it represented to purchasers that the article contained not less than 38.6 per cent of crude protein and not more than 12 per cent of crude fiber; and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that it contained not less than 38.6 per cent of crude protein and not more than 12 per cent of crude fiber, whereas, in truth and in fact, it contained less than 38.6 per cent of crude protein and more than 12 per cent of crude fiber.

On February 9, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6170. Misbranding of Chase's Blood and Nerve Tablets, Chase's Liver Tablets, and Chase's Kidney Tablets. U. S. * * * v. Kossuch E. Hafer (The Dr. Chase Co.). Plea of guilty. Fine, $250. (F. & D. No. 8259. I. S. Nos. 1249-m, 1250-m, 1251-m, 3254-k, 3255-k.)

On August 1, 1917, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Kossuch E. Hafer, trading as The Dr. Chase Co., Philadelphia, Pa., alleging shipment from the State of Pennsylvania into the State of New York, on or about August 29, 1916, by said defendant, in violation of the Food and Drugs Act, as amended, of quantities of articles labeled in part, "Chase's Blood and Nerve Tablets, Special," "Chase's Liver Tablets, Special," and "Chase's Kidney Tablets, Special," and, on or about May 21, 1915, from the State of Pennsylvania into the State of New Jersey, of quantities of articles labeled in part, "Chase's Kidney Tablets," and "Chase's Liver Tablets," which were misbranded.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed the following results:

Blood and Nerve Tablets, Special:

This product consisted of pink, sugar-coated tablets containing essentially metallic iron, ferrous sulphate, sodium carbonate, zinc phosphide, capsicum, aloes, strychnine, probably gentian, and possibly podophyllum. A trace of arsenic, probably an impurity, was present.

Liver Tablets:

These tablets are colored purple and sugar coated, the inactive portion of the tablet, consisting of sugar, constitutes about 50 per cent by weight of the entire tablet. The active portion, contained about the center of the tablet, consists largely of aloes, capsicum, licorice, ginger, and what appears to be nux vomica.

Liver Tablets, Special:

This product consisted of violet colored, sugar-coated tablets containing essentially aloes, peppermint oil, capsicum, ginger, and a little talc.

Kidney Tablets:

These are sugar-coated tablets surfaced by an impure variety of ferric oxid to resemble chocolate color. About 40 per cent of the tablet is sugar. The active ingredients of the tablet appear to be methylene blue, licorice, potassium nitrate, and unidentified vegetable tissue. The presence of calcium, magnesium, aluminum, and iron oxids and silica in the ash are indicative of the presence of talc, probably used as a lubricant in the manufacture of the tablets.

Kidney Tablets, Special:

This product consists of brown sugar-coated tablets containing essentially methylene blue, licorice, oil of celery, and the nitrates, carbonates, and silicates of potassium, sodium, lithium, and magnesium. The ash contains also traces of iron phosphates and sulphates. Indications of a substance resembling spirits of turpentine.

It was alleged in substance in the information that the Blood and Nerve Tablets, Special, were misbranded for the reason that certain statements appearing on the labels and included in the circular accompanying the article falsely and fraudulently represented it as a remedy, treatment, and cure for weakness in old people, nervous prostration, general debility, muscular weakness, sexual exhaustion, anæmia, and as a powerful restorative of the vital forces, when, in truth and in fact, it was not.

It was alleged in substance that the Liver Tablets, and Liver Tablets, Special, were misbranded for the reason that certain statements, appearing on the labels and included in the circular accompanying the article, falsely and fraudulently repre-

sented it as a remedy, treatment, and cure for dyspepsia, paralysis of the bowels and rectum, diseases of the liver such as specks floating before the eyes and blurred vision, and as effective to make the digestion perfect, and to eliminate malarial poisons from the system, when, in truth and in fact, it was not.

It was alleged in substance that the Kidney Tablets, and Kidney Tablets, Special, were misbranded for the reason that certain statements appearing on the labels and included in the circular accompanying the article falsely and fraudulently represented it as a remedy, treatment, and cure, both when taken alone and in combination with Chase's Blood and Nerve Tablets, for kidney, bladder, spinal, and urinary troubles, paralysis of the bladder, loss of power to hold the urine, general debility, rheumatism, weakness of the back and spine, Bright's disease in its early stages, and dropsy, when, in truth and in fact, it was not, and was not a remedy, treatment, or cure for Bright's disease at any stage.

On August 3, 1917, the defendant entered a plea of guilty to the information, and the court imposed a fine of $250.

CARL VROOMAN,
Acting Secretary of Agriculture.

6171. Adulteration of minced clams. U. S. * * * v. 100 Cases of Minced Clams. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 8266. I. S. No. 22228-m. S. No. W-184.)

On May 22, 1917, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district, a libel for the seizure and condemnation of 100 cases of minced clams, remaining unsold in the original unbroken packages at San Francisco, Cal., alleging that the article had been shipped by H. Van Vlack & Co., Tacoma, Wash., and transported from the State of Washington into the State of California, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a decomposed animal substance.

On June 9, 1917, the Pettigrew-Zinn Co., claimants, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released to said claimants upon the payment of the costs of the proceedings and the execution of a bond in the sum of $313.60, in conformity with section 10 of the act.

CARL VROOMAN,
Acting Secretary of Agriculture.

6172. Adulteration of tomato pulp. U. S. * * * v. 280 Cans of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8273. I. S. No. 1465-m. S. No. E-852.)

On June 12, 1917, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 280 cans of tomato pulp at Jersey City, N. J., alleging that the article had been shipped on or about March 25, 1917, and transported from the State of Maryland into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On April 15, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the property should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

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6173. Adulteration and misbranding of whisky. U. S. * * * v. Julius Levin Co., a corporation. Plea of guilty. Fine, $100. (F. & D. No. 8287. I. S. No. 22136-m.)

On August 2, 1917, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Julius Levin Co., a corporation, San Francisco, Cal., alleging shipment by said company, in violation of the Food and Drugs Act, on or about September 7, 1916, from the State of California into the State of Montana, of a quantity of an article labeled in part, "Guckenheimer Pure Rye Whiskey," which was adulterated and misbranded.

Examination of a sample of the article by the Bureau of Chemistry of this department showed the following results, expressed as grams per 100 liters proof spirit unless otherwise specified:

Proof at 60° F. (degrees)	84.7
Solids	179.4
Acids, total, as acetic	9.9
Esters, as acetic	14.5
Aldehydes, as acetic	2.4
Furfural	.68
Fusel oil	18.7
Color (degrees, brewer's scale, 0.5 inch)	10.5
Color insoluble in amyl alcohol (per cent)	40

Paraldehyde test: Positive.

Residue on distillation shows trace of resins and odor of wood.

The product contains neutral spirits and is colored with caramel.

Adulteration of the article was alleged in the information for the reason that neutral spirits, artificially colored with caramel, had been substituted in whole or in part for pure rye whisky, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "pure rye whiskey," borne on the label attached to the bottles, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article was pure rye whisky; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure rye whisky, whereas, in truth and in fact, it was not, but was neutral spirits artificially colored with caramel.

On March 30, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $100.

CARL VROOMAN,
Acting Secretary of Agriculture.

6174. Misbranding of Terraline Petroleum Purificatum Plain. U. S. * * * v. Hillside Chemical Co., a corporation. Plea of nolo contendere. Fine, $30. (F. & D. No. 8312. I. S. No. 1376-m.)

On September 4, 1917, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Hillside Chemical Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on October 20, 1916, from the State of New York into the State of Massachusetts, of a quantity of an article labeled in part, "Terraline Petroleum Purificatum Plain," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was a petroleum product not medicinally purified and containing no added medicinal ingredients.

It was alleged in substance in the information that the article was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it as a remedy for phthisis, coughs, asthma, la grippe, hoarseness, all diseases of the throat and lungs, and general debility, when, in truth and in fact, it was not.

On December 18, 1917, the defendant company's demurrer theretofore interposed to the information was argued and overruled, and on April 3, 1918, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $30.

CARL VROOMAN,
Acting Secretary of Agriculture.

6175. Adulteration and misbranding of alimentary paste. U. S. * * * v. Seattle Macaroni Mfg. Co., a corporation. Plea of guilty. Fine, $50. (F. & D. No. 8326. I. S. No. 20932-l.)

On March 29, 1918, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Seattle Macaroni Mfg. Co., a corporation, Seattle, Wash., alleging shipment by said company, in violation of the Food and Drugs Act, on or about May 3, 1916, from the State of Washington into the State of Oregon, of a quantity of an article labeled in part, "Venetia Brand Supreme Quality Italian Style Lasagnette," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Boiling test: Fair.
Cooking test: Fair.
Artificial color: Present.
Translucency: Very good.
Vitrousness of fracture: Very good.
Residue from ammoniacal-alcoholic extract shows presence of some semolina.
It is made in part from an inferior grade of flour and is artificially colored to conceal inferiority.

Adulteration of the article was alleged in the information for the reason that it was artificially colored in a manner whereby its inferiority was concealed.

Misbranding of the article was alleged for the reason that the statement, to wit, "Di Pura Semola," borne on the box containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that the article consisted exclusively of pure semola; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted exclusively of pure semola, whereas, in truth and in fact, it did not, but consisted in part of flour, an article inferior to pure semola.

On April 6, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $50.

CARL VROOMAN,
Acting Secretary of Agriculture.

6176. Misbranding of The Texas Wonder. U. S. * * * v. 6 Dozen Bottles * * * The Texas Wonder. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8336. I. S. No. 9201-p. S. No. C-705.)

On July 12, 1917, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 6 dozen bottles of The Texas Wonder, consigned on or about June 14, 1917, by E. W. Hall, St. Louis, Mo., remaining unsold in the original unbroken packages at Cincinnati, Ohio, alleging that the article had been shipped and transported from the State of Missouri into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended.

The article was labeled in part: (On Cartons) "For Kidney and Bladder Troubles, Diabetes, Weak and Lame Backs, Rheumatism, Dissolves Gravel, Regulates Bladder trouble in Children." (On Circulars) "In treating Children for Bed Wetting You should give them A Cold bath every night in Connection with The Texas Wonder."

It was alleged in substance in the libel that the article was misbranded for the reason that the statements in the circular and on the cartons, regarding the curative and therapeutic effects of said drug and of the ingredients and substances contained therein, were false and fraudulent.

On March 5, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6177. Misbranding of cottonseed meal. U. S. * * * v. Swift & Co., a corporation. Plea of guilty. Fine, $350 and costs. (F. & D. No. 8355. I. S. Nos. 2709-m, 2772-m, 2774-m, 2776-m, 2777-m, 2778-m, 2779-m, 2782-m, 2783-m, 2784-m.)

On September 17, 1917, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Swift & Co., a corporation, doing business at Atlanta, Ga., alleging shipment by said company, on or about October 11, 1916, October 13, 1916, October 26, 1916, October 28, 1916, November 3, 1916, December 1, 1916 (2 shipments), December 7, 1916 (2 shipments), and December 8, 1916, in violation of the Food and Drugs Act, from the State of Georgia into the State of South Carolina, of quantities of cottonseed meal which was misbranded.

Analyses of samples of the article by the Bureau of Chemistry of this department showed the following results:

Determination.	Oct. 11.	Oct. 13.	Oct. 26.	Oct. 28.	Nov. 3.	Dec. 1.		Dec. 7.		Dec. 8.
						I.	II.	I.	II.	
Nitrogen (per cent)	.....	.....	.....	.....	4.69	.....	.....	.....	.....	.....
Protein (N x 6.25) (per cent)	32.3	32.3	32.0	30.0	.....	30.7	31.9	32.0	31.1	32.6
Crude fiber (per cent)	.....	.....	13.0	13.7	.....	13.8	13.8	.....	13.1	.....

Misbranding of the article in the shipments on October 11, 1916, October 13, 1916, one of the shipments on December 7, 1916, and December 8, 1916, was alleged in the information for the reason that the statement, to wit, "guaranteed analysis protein 36.00%," borne on the tags attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 36 per cent of protein; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 36 per cent of protein, whereas, in truth and in fact, it contained less than 36 per cent of protein, to wit, 32.3 per cent of protein in the first two shipments, or 32 per cent of protein, or 32.6 per cent of protein, as the case might be.

Misbranding of the article in the shipments on October 26, 1916, October 28, 1916, December 1, 1916 (2 shipments), and one of the shipments on December 7, 1916, was alleged for the reason that the statement, to wit, "guaranteed analysis protein 36.00% * * * crude fiber 12.00%," borne on the tags attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 36 per cent of protein and not more than 12 per cent of crude fiber; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 36 per cent of protein and not more than 12 per cent of crude fiber, whereas, in truth and in fact, it contained less than 36 per cent of protein and more than 12 per cent of crude fiber, to wit, 32 per cent of protein and 13 per cent of crude fiber, or 30 per cent of protein and 13.7 per cent of crude fiber, or 30.7 per cent of protein and 13.8 per cent of crude fiber, or 31.9 per cent of protein and 13.8 per cent of crude fiber, or 31.1 per cent of protein and 13.1 per cent of crude fiber, as the case might be.

Misbranding of the article in the shipment on November 3, 1916, was alleged for the reason that the statement, to wit, "guaranteed analysis nitrogen 5.76%," borne on the tags attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 5.76 per cent of nitrogen; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 5.76 per cent of nitrogen, whereas, in truth and in fact, it contained less than 5.76 per cent of nitrogen, to wit, 4.69 per cent of nitrogen.

On March 27, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $350 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6178. Misbranding of Egiuterro, Uicure, No. A., No. B., No. C., and No. D., Sweet Rest for Children, Beaver Drops Comp., Blood-Kleen, Heart and Nerve Regulator, Kidneyleine, Eye Powder, Tanrue Herbs and Pills, and 5 Herbs. U. S. * * * v. Albert G. Groblewski. Plea of nolo contendere. Fine, $210. (F. & D. No. 8362. I. S. Nos. 522–1, 527–1, 528–1, 529–1, 530–1, 531–1, 532–1, 533–1, 536–1, 537–1.)

On January 29, 1918, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Albert G. Groblewski, Plymouth, Pa., alleging shipment by said defendant, on or about June 3, 1916, in violation of the Food and Drugs Act, as amended, from the State of Pennsylvania into the State of New Jersey, of quantities of articles labeled in part: "Egiuterro," "Uicure No. A, No. B, No. C, and No. D," "Sweet Rest for Children," "Beaver Drops Comp.," "Blood-Kleen," "Heart and Nerve Regulator," "Kidneyleine," "Eye Powder," "Tanrue Herbs and Pills," and "5 Herbs," which were misbranded.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed the following results:

Egiuterro: This product consists essentially of aloes, magnesium sulphate, jalap, strychnine, alcohol, and water, flavored with methyl salicylate.

Uicure: Sample consists of five bottles marked, "No. A," "No. B," No. C," "No. D," "No. E."

Bottle "No. A" is filled with a dark liquid with a sediment at the bottom and contains essentially aloes, magnesium sulphate, menthol, alcohol, and water. No morphine. Alcohol, 19.6 per cent by volume.

Bottle "No. B" is filled with a dark red solution and consists of alcohol, ammonia, chloroform, ether, oil of sassafras, menthol, benzoic acid, cinnamic acid, resins, and an unidentified alkaloid.

Bottle "No. C" is filled with a light brown liquid with a slight sediment. It contains essentially a hydroalcoholic solution of quinine sulphate and capsicum. No morphine.

Bottle "No. D" is filled with a dark, bluish liquid with a slight fluorescence. It consists essentially of a hydroalcoholic solution of gum guaiac, ammonia, ammonium carbonate, oil of rosemary and other essential oils, and morphine.

Bottle "No. E" contains large whitish compressed tablets consisting essentially of lithium, sodium carbonates, salicylates, salol, talc, and starch.

Sweet Rest for Children: This product consists essentially of asafoetida, magnesium carbonate, opium, sugar, water, and alcohol.

Beaver Drops Comp.: This product consists essentially of a resin with peculiar odor dissolved in alcohol and water.

Blood Kleen: Product appears to be a hydroalcoholic sirup, containing essentially alcohol, 13.60 per cent, potassium iodid, about 5 per cent, sarsaparilla, licorice, and other unidentified plant-extractive material. It contains also an emodin-bearing drug resembling rhubarb, and arsenic in small quantity. The phosphate found in ash is apparently due to plant phosphorus.

Heart and Nerve Regulator: This product consists essentially of chloral hydrate, sodium bromide, morphine, valerianic acid, capsicum, oil of cinnamon (as a flavor), glycerine, sugar, alcohol, and water.

Kidneyleine: This product consists essentially of a hydroalcoholic solution of acetates and nitrates of potassium and ammonium, an alkaloid, and aromatics. Spartein indicated. Alcohol, per cent by volume, 23.4.

Eye Powder: This product consists essentially of iodoform and boric acid; no alkaloids.

Tanrue Herbs and Pills: Tansy, rue, pennyroyal, hepatica, sassafras, ginger, cinnamon, verbena, podophyllum, and an unidentified flower (compositae) were found; pills contain licorice. Taste indicates aloes.

5 Herbs: Mistletoe, stramonium, skullcap, and black cohosh were found.

It was alleged in substance in the information that Egiuterro was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it as a preventive of smallpox, and as a remedy for rheumatism, dyspepsia, all kinds of fevers, all stomach disorders, all sores, inflammations, swellings, coughs, headaches, for pimples, blotches, boils, and all kinds of skin eruptions which are due to the impure blood or disarranged condition of the liver and kidneys, when, in truth and in fact, it was not. Misbranding of the article was alleged for the further reason that it contained alcohol, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol contained therein.

It was alleged in substance that Uicure was misbranded for the reason that certain statements, and a certain design and device, appearing on the label of the carton, falsely and fraudulently represented the four articles to be effective, when used in conjunction, as a cure for rheumatism, acute and chronic rheumatism, rheumatic fever, inflammatory rheumatism, stiffness, pain, tenderness, swelling, and redness of joints, acute rheumatoid arthritis, pyemia, sciatica, neuralgia, gout, podagra, gongra, chiragra, and all kinds of true rheumatic affections, when, in truth and in fact, it was not. Misbranding of "Uicure No. A and No. C" was alleged, in substance, for the reason that each article contained alcohol, and the labels on the bottles failed to bear a statement of the quantity or proportion of alcohol contained therein. Misbranding of Uicure No. B was alleged, for the reason that it contained alcohol, chloroform, and ether, a derivative of alcohol, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol, chloroform, and ether contained therein. Misbranding of Uicure No. D was alleged for the reason that it contained alcohol and opium, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol and opium contained therein.

It was alleged in substance that Sweet Rest for Children was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it as a remedy for fretful, cross, and nervous babies, and as a remedy for three-months' colic, when, in truth and in fact, it was not. Misbranding of the article was alleged for the further reason that it contained alcohol and opium, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol and opium contained therein.

It was alleged in substance that Beaver Drops Comp. was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it as a remedy for irregular menses, ailments due to irregular menses, and nervous ailments due to irregular menses, when, in truth and in fact, it was not. Misbranding of the article was alleged for the further reason that it contained alcohol, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol contained therein.

It was alleged in substance that Blood-Kleen was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it to be effective, when used in connection with Egiuterro No. 1, as a treatment for syphilis, scrofula, eczema, psoriasis, anemia, ulcers, cancer, tetter, all diseases of blood and skin of venereal origin, and as a remedy for rheumatism and lockjaw, and, when used in connection with Egiuterro and Tenyad Pills, as a remedy for syphilis, chancres, and all venereal diseases of blood and skin, when, in truth and in fact, it was not so effective, either when used alone or in connection with Egiuterro No. 1 or Egiuterro and Tenyad Pills. Misbranding of the article was alleged for the further

reason that it contained alcohol, and the label on the bottle failed to bear a statement of the quantity or proportion of alcohol contained therein.

It was alleged in substance that Heart and Nerve Regulator was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it to be effective as a heart and nerve regulator, and as a remedy for palpitation of the heart and all troubles of the nervous system arising therefrom, and as the most perfect sedative agent for delirium tremens, St. Vitus dance, hysteria, melancholia, sleeplessness, imaginary visions, fright, nervous headache, and nervousness, when, in truth and in fact, it was not. Misbranding of the article was alleged for the further reason that the statement, "Nerve and Heart Regulator * * * Most Harmless * * *," on the carton, was false and misleading in that it represented that the article contained no harmless [harmful] ingredient, whereas, in truth and in fact, it did contain harmful ingredients, to wit, opium and chloral hydrate. Misbranding of the article was alleged for the further reason that it contained alcohol, opium, and chloral hydrate, and the label on the bottle failed to bear a statement of the quantity or proportion of the alcohol, opium, and chloral hydrate contained therein.

It was alleged in substance that Kidneyleine was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it as a remedy for Bright's disease, dropsy, retention of urine, and all troubles of the kidney, bladder, and urinary organs, when, in truth and in fact, it was not. Misbranding of the article was alleged for the further reason that the statement, "Contains alcohol 30%," was false and misleading in that it represented that the article contained 30 per cent of alcohol, whereas, in truth and in fact, it did not, but contained a less amount, 23.4 per cent of alcohol; and for the further reason that it contained alcohol, and the labels failed to bear a statement of the quantity or proportion of alcohol contained therein.

It was alleged in substance that Eye Powder was misbranded for the reason that a certain statement appearing on the label falsely and fraudulently represented it as a treatment and remedy for cataract and sore eyes, when, in truth and in fact, it was not.

It was alleged in substance that Tanrue Herbs and Pills was misbranded for the reason that a certain statement appearing on the label falsely and fraudulently represented it as a treatment and remedy for suppressed, painful, and irregular menses, when, in truth and in fact, it was not.

It was alleged in substance that 5 Herbs was misbranded for the reason that certain statements appearing on the label falsely and fraudulently represented it to be effective, when used in connection with Iron Blood Tonic, Nerveheartone, and Egiuterro, as a remedy for epilepsy, "fallen" sickness, and fits, when, in truth and in fact, it was not.

On March 14, 1918, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $210.

CARL VROOMAN,
Acting Secretary of Agriculture.

6179. Adulteration of eggs. U. S. * * * v. 19 Cases * * * of Shell Eggs. Default order of court for separation of the good eggs from the bad, and the sale of the good eggs and destruction of the bad. (F. & D. No. 8388. I. S. No. 8202-P. S. No. C-708.)

On July 19, 1917, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 19 cases, each containing 30 dozen eggs, at Chicago, Ill., alleging that the article had been shipped on July 11, 1917, by Jacob Heib, Marion Junction, S. Dak., and transported from the State of South Dakota into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a decomposed animal substance; for the further reason that it consisted wholly of a decomposed animal substance; for the further reason that it consisted in part of a filthy animal substance; and for the further reason that it consisted wholly of a filthy animal substance.

On July 24, 1917, the matter having come on to be heard, upon motion of the United States attorney for an order for the disposition of the article, and it appearing to the court that the consignee and consignor had refused to claim the article, and that the same was of a perishable character and rapidly deteriorating in quality and value, it was ordered by the court that the United States marshal be authorized and directed to separate such portion of the eggs as should be found to be fit for human food, and sell the same at the best price obtainable, and to destroy such portion of the article found by him to be unfit for food.

CARL VROOMAN,
Acting Secretary of Agriculture.

6180. Adulteration of shell eggs. U. S. * * * v. 186 Cases of Shell Eggs. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 8389. I. S. No. 9507-p. S. No. C-725.)

On July 27, 1917, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 186 cases of shell eggs, consigned on July 24, 1917, remaining unsold in the original unbroken packages at Memphis, Tenn., alleging that the article had been shipped by J. V. Boring & Bro., Houston, Miss., and transported from the State of Mississippi into the State of Tennessee, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On July 27, 1917, the said J. V. Boring & Bro., claimants, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimants upon the payment of the costs of proceedings, and the execution of a bond in the sum of $500, in conformity with section 10 of the act, conditioned in part that the eggs should be candled under the supervision of a representative of this department.

CARL VROOMAN,
Acting Secretary of Agriculture.

6181. Misbranding of cottonseed meal. U. S. * * * v. Union Seed & Fertilizer Co., a corporation. Plea of guilty. Fine, $100. (F. & D. No. 8433. I. S. No. 19970-m.)

On October 18, 1917, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Union Seed & Fertilizer Co., a corporation, doing business at Huntsville, Ala., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 1, 1916, from the State of Alabama into the State of Michigan, of a quantity of an article labeled in part, "Security Brand Cotton Seed Meal," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Crude protein (N x 6.25) (per cent)..... 33.31

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Guarantee; protein—not less than 36.00 per cent," borne on the tag attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained not less than 36 per cent of protein; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 36 per cent of protein, whereas, in truth and in fact, it contained less than 36 per cent of protein, to wit, approximately 33.31 per cent of protein.

On April 30, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $100.

CARL VROOMAN,
Acting Secretary of Agriculture.

6182. Adulteration and misbranding of Appetone brand blended sirup. U. S. * * * v. Goulding Bros. Co., a corporation. Plea of nolo contendere. Fine, $50. (F. & D. No. 8437. I. S. Nos. 1734-m, 2839-m.)

On March 20, 1918, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Goulding Bros. Co., a corporation, Whitman, Mass., alleging shipment by said company, under the name of the Goulding Maple Syrup Co., on or about September 20, 1916, and November 24, 1916, in violation of the Food and Drugs Act, from the State of Massachusetts into the State of Connecticut, of quantities of an article labeled in part, "Appetone Brand Blended Syrup, 75% Granulated, 25% Maple Sugar. Prepared by Goulding Maple Syrup Co., Whitman, Mass.," which was adulterated and misbranded.

Analyses of samples of the article by the Bureau of Chemistry of this department showed the following results:

	Shipment of	
	Sept. 20.	*Nov. 24.*
Moisture (per cent)	32.90	33.15
Invert sugar (per cent)	1.87	.61
Sucrose (per cent)	64.75	64.60
Test for caramel	Positive.	Positive.
Total ash to moisture free basis (per cent)	0.15	0.15
Malic acid value to moisture free basis (per cent)	.07	.05
Winton lead number to moisture free basis (per cent)	.06	.05

Each product is a mixture of sugar sirup and not more than 10 per cent maple sugar, artificially colored with caramel.

Adulteration of the article in each shipment was alleged in the information for the reason that a substance, to wit, cane sugar sirup artificially colored, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality, and had been substituted in part for 25 per cent of maple sugar, which the article purported to be; and for the further reason that it was a mixture composed in part of not more than 10 per cent of maple sugar sirup, an article inferior to a product composed of 25 per cent of maple sugar sirup, and was colored with caramel so as to simulate the appearance of a product composed of 25 per cent of maple sugar sirup, and in a manner whereby its inferiority to said product, composed of 25 per cent of maple sugar sirup, was concealed.

Misbranding of the article in each shipment was alleged for the reason that the statement, to wit, "25% maple sugar syrup," borne on the labels attached to the bottles regarding the article and the ingredients and substances contained therein, was false and misleading, in that it represented that the article contained not less than 25 per cent of maple sugar sirup; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the article contained not less than 25 per cent of maple sugar sirup, whereas, in truth and in fact, it contained less than 25 per cent of maple sugar sirup, to wit, not more than 10 per cent of maple sugar sirup.

On April 9, 1918, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of $50.

CARL VROOMAN,
Acting Secretary of Agriculture.

6183. Adulteration of eggs. U. S. * * * v. 5 Cases of Eggs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8444. I. S. No. 9303-p. S. No. C-712.)

On July 18, 1917, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 5 cases, each containing 30 dozen eggs, remaining unsold in the original unbroken packages at Springfield, Mo., alleging that the article had been shipped on or about July 11, 1917, by Breese Bros., Bergman, Ark., and transported from the State of Arkansas into the State of Missouri, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, putrid, and decomposed animal substance.

On October 2, 1917, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6184. Adulteration of eggs. U. S. * * * v. 10 Cases of Eggs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8445. I. S. No. 9304-p. S. No. C-713.)

On July 18, 1917, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 10 cases, each containing 30 dozen eggs, remaining unsold in the original unbroken packages at Springfield, Mo., alleging that the article had been shipped on or about July 12, 1917, by the Calico Rock Produce Co., Calico Rock, Ark., and transported from the State of Arkansas into the State of Missouri, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, putrid, and decomposed animal substance.

On October 2, 1917, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6185. Adulteration and misbranding of chloroform liniment. U. S. * * * v. Harry B. Koester. Plea of guilty. Fine, $20. (F. & D. No. 8452. I. S. No. 2224-m.)

On October 4, 1917, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the police court of the said District an information against Harry B. Koester, Washington, D. C., alleging that said defendant did offer for sale and sell at the District aforesaid, in violation of the Food and Drugs Act, on December 19, 1916, a quantity of an article labeled in part "Chloroform Liniment," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results: Chloroform, 206 mils per 1,000 mils, or 99 minims per fluid ounce; and camphor, 19.2 grams per 1,000 mils.

Adulteration of the article was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia, and differed from the standard of strength, quality, and purity as determined by the tests laid down in the said Pharmacopœia, official at the time of investigation of the article, in that in 1,000 mils of the article there were 206 mils of chloroform, whereas the said Pharmacopœia provides that in 1,000 mils of the article there shall be 300 mils of chloroform, and in that in 1,000 mils of the article there were 19.2 grams of camphor, whereas the said Pharmacopœia provides that in 1,000 mils of the article there shall be 700 mils of soap liniment, and that in 700 mils of soap liniment there shall be 31.5 grams of camphor, and the standard of strength, quality, and purity of the article was not declared on the container thereof.

Misbranding of the article was alleged for the reason that the statement, to wit, "Each fluid ounce contains * * * chloroform, 144 minims," borne on the label attached to the bottle containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that each fluid ounce of the article contained 144 minims of chloroform, whereas, in truth and in fact, it did not, but contained a less amount, to wit, 99 minims of chloroform; and for the further reason that it contained chloroform, and the label failed to bear a statement of the quantity or proportion of chloroform contained therein.

On October 4, 1917, the defendant entered a plea of guilty to the information, and the court imposed a fine of $20.

CARL VROOMAN,
Acting Secretary of Agriculture.

6186. Adulteration and misbranding of so-called apple cider vinegar. U. S. * * * v. Derwood Dawson and L. Jacob Dawson (Dawson Bros. Mfg. Co.). Pleas of guilty. Fine, $100. (F. & D. No. 8484. I. S. Nos. 3634-l, 3635-l.)

On December 20, 1917, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Derwood Dawson and L. Jacob Dawson, doing business as Dawson Bros. Mfg. Co., Atlanta, Ga., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, on or about February 22, 1916 (two shipments), from the State of Georgia into the State of Florida, of quantities of so-called apple cider vinegar which was adulterated and misbranded. One shipment was labeled in part, "Dawson Bros. Mfg. Co. Supreme Brand," and the other was labeled in part, "Georgia Belle Brand."

Analyses of samples of the article by the Bureau of Chemistry of this department showed the following results:

	Supreme Brand.	Georgia Belle Brand.
Alcohol (gram per 100 cc)	0.11	0.09
Total acid, as acetic (grams per 100 cc)	4.57	4.60
Reducing sugar as invert after evaporation before inversion (gram per 100 cc)	.33	.31
Total phosphoric acid, as P_2O_5 (mg. per 100 cc)	9.2	9.0
Glycerin (gram per 100 cc)	.12	.135
Solids (grams per 100 cc)	1.50	1.39
Nonsugar solids (grams per 100 cc)	1.17	1.08
Ash (gram per 100 cc)	.29	.23
Ash in nonsugar solids (per cent)	24.8	21.3
Lead precipitate	Very light.	Very light.
Net contents		1 pt. 4.7 fl. oz.

Each sample contains added mineral matter and added distilled vinegar or dilute acetic acid in large amount.

Adulteration of the article in each shipment was alleged in substance in the information for the reason that substances, to wit, either dilute acetic acid or distilled vinegar and foreign mineral matter, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality and strength, and had been substituted in part for pure apple cider vinegar diluted to 4 per cent acid strength, or acetic strength, as the case might be, which the article purported to be.

Misbranding of the article in one of the shipments was alleged for the reason that the statement, to wit, "Pure Apple Cider Vinegar Diluted to 4% Acid Strength," borne on the barrels containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that the article was pure apple cider vinegar diluted to 4 per cent acid strength; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure apple cider vinegar diluted to 4 per cent acid strength, whereas, in truth and in fact, it was not, but was a mixture composed in part of either dilute acetic acid or distilled vinegar and foreign mineral matter.

Misbranding of the article in the other shipment was alleged for the reason that the statements, to wit, "Pure Apple Cider Vinegar Reduced to 4% Acetic Strength," and "Net Contents One Gallon," borne on the label attached to the bottle containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that the article was pure apple cider vinegar reduced to 4 per cent acetic strength, and that said bottle contained 1 gallon of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure apple cider vinegar reduced to 4 per cent acetic strength, and that said bottle contained 1 gallon of the article, whereas, in truth and in fact, it was not pure apple cider vinegar reduced to 4 per cent

acetic strength, and said bottle did not contain 1 gallon of the article, but said article was a mixture composed in part of either distilled vinegar or dilute acetic acid and foreign mineral matter, and said bottle contained less than 1 gallon of the article. Misbranding of the article was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 29, 1918, the defendants entered pleas of guilty to the information, and the court imposed a fine of $100.

CARL VROOMAN,
Acting Secretary of Agriculture.

6187. Misbranding of horse and mule feed. U. S. * * * v. Walter Howell, Henry P. Moss, George Dahnke, James A. Cable, and Luther J. Cherry (Howell Grain & Feed Co.). Special plea. Fine, $25 and costs. (F. & D. No. 8537. I. S. No. 9529-m.)

On March 26, 1918, the United States attorney for the District of Western Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Walter Howell, Henry P. Moss, George Dahnke, James A Cable, and Luther J. Cherry, copartners, trading under the firm name of the Howell Grain & Feed Co., Union City, Tenn., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about December 28, 1916, from the State of Tennessee into the State of South Carolina, of a quantity of an article labeled in part, "Leader Horse and Mule Feed, Manufactured by Howell Grain & Feed Co., Union City, Tenn," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Ether extract (crude fat) (per cent)	1.47
Crude fiber (per cent)	21.8
Crude protein (per cent)	7.06

Misbranding of the article was alleged, in substance, in the information for the reason that the statement, to wit, "Guaranteed Analysis, Protein ..... 9.00 per cent, Fat ..... 2.30 per cent, Fiber ..... 12.00 per cent," borne on the tags attached to the sacks, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained 9 per cent of protein, 2.30 per cent of fat, and 12 per cent of fiber, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 9 per cent of protein, not less than 2.30 per cent of fat, and not more than 12 per cent of fiber, whereas, in truth and in fact, it contained less protein and fat and more fiber than was declared on the label, to wit, approximately 7.06 per cent of protein, 1.47 per cent of fat, and 21.8 per cent of fiber.

On April 22, 1918, a special plea was entered on behalf of the defendant firm, submitting to the judgment of the court, and thereupon the court imposed a fine of $25 and costs.

CARL VROOMAN,
Acting Secretary of Agriculture.

6188. Adulteration and misbranding of high protein meat scraps. U. S. * * * v. 120 bags * * * of high protein meat scraps. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 8551. I. S. No. 15137-p. S. No. C-749.)

On October 22, 1917, the United States attorney for the District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 120 bags of a product purporting to be high protein meat scraps consigned August 30, 1917, remaining unsold in the original unbroken packages at West Lafayette, Ind., alleging that the article had been shipped by Darling & Co., Chicago, Ill., and transported from the State of Illinois into the State of Indiana, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Darlings' High Protein Meat Scraps for Poultry. * * * Protein Min. 55.0%."

Adulteration of the article was alleged, in substance, in the libel for the reason that ground glass had been mixed and packed therewith, and had been substituted in part for meat scraps and said ground glass, added and substituted as aforesaid, was a deleterious ingredient which rendered the article injurious to health.

Misbranding of the article was alleged in substance for the reason that the statement, borne in the label on the bags, that the article contained 55 per cent protein, was false and misleading; and further in that it was branded so as to deceive and mislead the purchaser thereof for the reason that the article did not contain 55 per cent of protein, but contained a less percentage of protein.

On April 3, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be sold by the United States marshal at public sale, and that before being sold it should be properly relabeled, with injunction against the use of the product as food for human or animal consumption.

CARL VROOMAN,
Acting Secretary of Agriculture.

6189. Misbranding of XXX Tonic Pills. U. S. * * * v. XXX Pill Co., a corporation. Plea of guilty. Fine, $50. (F. & D. No. 8553. I. S. No. 3728-m.)

On March 20, 1918, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the XXX Pill Co., a corporation, Lewiston, Me., alleging shipment by said company, on or about January 11, 1917, in violation of the Food and Drugs Act, as amended, from the State of Maine into the State of Massachusetts, of a quantity of an article labeled in part, "XXX Tonic Pills," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Coating: Sucrose and calcium carbonate.

Medicinal (decoated): Iron, reduced (gram per pill), 0.020; trace of quinine, strychnin, and resins; emodin, aloin, gentian, anise oil, and vegetable extractives present; faint trace of arsenic; phosphorus (phosphid) and manganese salts absent.

It was alleged in substance in the information that the article was misbranded for the reason that certain statements appearing on the label of the boxes falsely and fraudulently represented it to be effective as a treatment for rheumatism, diseases of women, neuralgia, sciatica, St. Vitus dance, locomotor ataxia, and partial paralysis, when, in truth and in fact, it was not. It was alleged in substance that the article was misbranded for the further reason that certain statements included in the circular accompanying the article falsely and fraudulently represented it to be effective as a treatment for rheumatism, facial neuralgia, hysteria, asthma, amaurosis, paralysis, dyspepsia, scurvy, scrofula, diseases of women, neuralgia, sciatica, St. Vitus dance, locomotor ataxia, diphtheria, derangements of the mind caused by anemia, whooping cough, sensory and motor paralysis of the nervous system, impotence, spermatorrhea, amaurosis of lead poisoning, St. Guys dance, ataxia, and retention or incontinence of urine due to paralysis or paresis of the bladder, when, in truth and in fact, it was not.

On April 15, 1918, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $50.

CARL VROOMAN,
Acting Secretary of Agriculture.

6190. Adulteration of clams. U. S. * * * v. Charles F. Leavitt (Leavitt Bros.). Plea of nolo contendere. Fine, $25. (F. & D. No. 8567. I. S. No. 3765-m.)

On March 20, 1918, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Charles F. Leavitt, trading as Leavitt Bros., Pine Point, Me., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about May 9, 1917, from the State of Maine into the State of Massachusetts, of a quantity of clams which were adulterated.

Examination of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Protein (per cent)	8.00
Solids (per cent)	12.27
Ash (per cent)	1.11
Salt (per cent)	.12

This analysis indicates that the clams contained an excessive amount of water.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality and strength, and had been substituted in part for clams which the article purported to be.

On March 29, 1918, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $25.

CARL VROOMAN,
Acting Secretary of Agriculture.

6191. Adulteration of gelatin. U. S. * * * v. 5 Barrels of Gelatin. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 8586. I. S. No. 16123-p. S. No. W-199.)

On November 13, 1917, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of five barrels of gelatin, consigned on or about September 15, 1917, by Armour & Co., Chicago, Ill., remaining unsold in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped and transported from the State of Illinois into the State of Washington, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it contained copper and zinc, added deleterious ingredients, which might render the article injurious to health.

On December 15, 1917, the said Armour & Co., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released to said claimant upon the payment of the costs of the proceedings, and the execution of a bond in the sum of $500, in conformity with section 10 of the act.

CARL VROOMAN,
Acting Secretary of Agriculture.

6192. Alleged adulteration of tomato catsup. U. S. * * * v. 720 Cases of Tomato Catsup. Tried to the court and a jury. Verdict for claimant. (F. & D. No. 8587. I. S. No. 3304-p. S. No. E-919.)

On November 19, 1917, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 720 cases, each containing 36 bottles of tomato catsup, alleging that the article had been received on or about October 29, 1917, the same having been shipped by the Garret Bergen Co., Bridgeton, N. J., and transported from the State of New Jersey into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On April 27, 1918, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court (Garvin, *D. J.*):

Mr. Foreman and gentlemen of the jury, it now devolves upon the court to charge you generally with reference to the law applicable to the case on trial, and before proceeding to discuss the law which is peculiarly applicable to this case, it is my duty to charge you generally with respect to the duties that devolve upon juries irrespective of the character of the case on trial.

In the first place, just as the court is the sole judge of the law which is applicable to the case on trial, so you gentlemen of the jury are the sole judges of the facts, and that means that you are to decide this case upon the evidence, and you are to disregard entirely statements of counsel made during the trial, because that is not evidence. You are further to disregard any opinion that you think the court may entertain as to the merits of either side in this controversy, because the function of the court has nothing to do with determining the facts. That, gentlemen, is a duty which the law imposes upon you, and it is a duty which you are obliged, by your oath, to face fearlessly. That is to say, that you are to put aside all passion, prejudice, and sympathy and to decide the case according to the evidence in order that justice may be done, and that means that you are to disregard the fact that the United States of America is a party to this proceeding. That should not sway you one way or the other. You are to disregard any consequences that you may think may be directed against the claimant in the event that you decide against the claimant, because that consequence is something with which a jury has nothing to do, and which a jury has no business to consider in reaching its verdict.

As you are to decide this case upon the evidence I will charge you that you are to take into consideration all the evidence presented, and you are to give it such weight as in your judgment it deserves. In determining whether or not you will accept or reject evidence given by a witness you will take into account the bearing of that witness on the stand, the probability of the story told, and the likelihood of its being true. I charge you that if you find that a witness has willfully misstated a material fact you are at liberty to disregard the entire testimony given by that witness. You are not required to do so, but that is your right. You may disregard it if you so desire.

And now, gentlemen, with respect to the law applicable to the case on trial. The United States of America comes into court and files a process known as a libel, and under that process seizes a quantity of tomato catsup, and then the shipper of that catsup, known here as the claimant, appears in the proceeding and states that the Government had no right to make the seizure, and the Government had no right to make the seizure unless that seizure was justified by law, and the Government claims that the justification for its action was that an act of Congress known as the Pure Food Law Act had been violated and that law reads in part as follows:

"That for the purpose of this act an article shall be deemed to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is a product of a diseased animal or one that has died otherwise than by slaughter."

And so, the part peculiarly applied here is that the Government claims that the goods in question consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance. I charge you in reaching your conclusion as to whether or not the law was violated that you are to accept in the common ordinary every day sense these words "filthy," "decomposed," and "putrid." There has been considerable expert testimony here, but I charge you it is the law that you are to give to

these words the meaning which they are ordinarily given in every day life. That is to say, filthy is usually considered to be nasty or dirty, and decomposed is usually considered to be rotten, and putrid has a somewhat similar meaning in every day life—rotten or emitting a vile odor. Just the meaning that you gentlemen would give to those words in your daily life.

Although the United States of America is a party to this proceeding, and although you gentlemen who have sat in criminal prosecutions have found in this court that the United States of America is the plaintiff there, yet this proceeding is not a criminal prosecution, and the reason of that becomes of extreme importance to you because of the fact, as perhaps you know, a different rule of law applies in guiding you in reaching your verdict. If it were a criminal prosecution the court would charge you that you must be satisfied that the Government made out its case against the defendant beyond a reasonable doubt. Now, this is not a criminal prosecution and if you gentlemen determine that the Government has proved the claims that it makes by a fair preponderance of evidence then it is your duty to find in favor of the Government. If you are satisfied that a fair preponderance of evidence has been presented by the Government, that makes out the Government's case. If you find that the evidence is evenly balanced between the claimant and the Government, and you are unable to make up your minds in whose favor your verdict would be, in that event you must render your verdict in favor of the claimant.

The Government has charged, and the trial disclosed, that 512 cases of catsup was seized, and the Government claims that by reason of an analysis made of a part of this seizure, and by reason of conditions existing in the factory of the claimant with respect to the manner of sorting tomatoes that this entire lot is so substantially affected with mold as to render it filthy, decomposed, or putrid within the meaning of the Pure Food Law. And if, gentlemen, after considering the evidence you come to the conclusion that the Government has sustained by a preponderance of evidence its contention that a whole or part of this seizure of 512 cases are so affected by mold as to render them filthy, decomposed, or putrid, then your verdict will be in favor of the Government.

The evidence has been so carefully analyzed for the benefit of you gentlemen, by counsel for the claimant and the Government, that the court does not deem it necessary to go over it at length. You have been paying careful attention to its presentation, and the court is of the opinion that you can, without further comment by the court, review the details of the evidence, and give it such weight as in your judgment it requires.

I have been asked by the claimant to make certain specific charges. I will read them to you:

(1) In determining as to whether the catsup seized consists in whole or in part of a filthy, decomposed, or putrid vegetable substance, the jury should consider that the words "filthy," "decomposed," or "putrid" are not used in a purely technical and scientific sense, but in the common, ordinary, every-day sense.

I have endeavored to so charge, and I so charge.

(2) The question for the jury to determine is whether upon all the facts appearing in this case there is such a substantial presence of mold, yeasts and spores, and bacteria as to warrant the finding that the product is filthy, decomposed, and putrid in a natural, practical sense. If the jury find there was not a substantial presence of these molds, yeasts and spores, and bacteria, the verdict must be for the defendant.

I so charge, except I charge you, you are not required to find all four of these products in the material. If you find any one or more of them present in such a substantial degree as to render the product decomposed and putrid in the natural sense, your verdict must be for the Government.

(3) The testimony of the Government's experts as to the percentage of molds, yeasts and spores, and bacteria are only statements of fact as to the counts obtained by them, and the inferences they draw from these facts are opinions which the jury may accept or reject.

I so charge, and let me make it a little plainer to you, gentlemen. The Government experts have testified that they made certain tests, and they found certain percentages of molds as a result of those tests in specimens which they selected from the quantity seized. Now, those statements by the Government experts under oath are positive statements of fact. Then the Government experts went on to say that as a result of the tests made, in their opinion, the balance of the goods seized were in the same condition and had the same relative percentages of mold. Those are mere expressions of opinion, the sort of opinion upon which expert testimony is very largely based, and which the jury may accept or reject according to whether or not they believe that the expert is a man who knows sufficiently about what he is talking to justify giving his opinion some substantial credence.

(4) In determining as to whether the catsup is filthy, decomposed, or putrid, the jury should also consider the testimony as to the quality of fruit used and the process employed by the Garret Bergen Co. in the manufacture thereof.

I so charge. I have endeavored to cover that in my charge to you when I charged you to pay attention to all the evidence presented, and to consider all the evidence. I am requested to charge as to part of the evidence, and I charge as to that. I charge also that you are to consider all the evidence.

(5) This case involving a forfeiture of property, the Government must establish its case by the preponderance of evidence and if you are in doubt on the whole case as to whether the Government has made a case or not, you must find for the defendant.

I so charge.

(6) The court's denial of the motion made by the defendant's counsel for a dismissal of the libel, in no way indicates any opinion of the court upon the merits of the case. The significance of the denial is that there were questions of fact in the case to be decided by the jury.

I so charge. I endeavored to cover that proposition when I told you if you think the court has any opinion in this matter you must dismiss it from your minds entirely. What the court thinks of the facts is of no significance to you whatever. You are to determine the facts in this case.

(7) No charge is made that the product is filthy or decomposed in a way that makes it injurious to health in the sense of a poison.

I so charge. I charge you further. It is not necessary that the contents, if it consists in whole or in part of a filthy or decomposed vegetable substance, is unfit for food, but if it comes within this prohibition as defined in the statute and explained by the court in its charge, then the claimant has violated the law and your verdict will be accordingly. And so I charge you, if, after considering the evidence with the instructions given by the court, you conclude that these 512 cases of catsup, or any part of them, are in such a condition as to have violated this law, then your verdict will be for the Government, indicating the number of 512 cases you believe were in an unfit condition. If you believe that the cases were all in a proper condition and the law was not violated, then your verdict would be for the claimant. Are there any further requests to charge?

Mr. Gilpatric. None from the claimant.

The Court. Any from the Government?

Mr. Smith. I ask the court to charge that if the jury find that the bottles examined by the Government employees as to which the testimony was given by those employees respecting the mold counts are deemed by them to be a fair sample after such examination, they may find that the condition of the entire shipment was the same as that indicated by the examination of those 22 bottles.

The Court. Do you wish to be heard upon that request?

Mr. Gilpatric. I should except to that, if your honor please.

The Court. I so charge.

Mr. Gilpatric. Exception.

Mr. Smith. I ask your honor to charge that it is not necessary for the Government to establish that this product is decomposed and putrid and filthy. It is not necessary for the Government to establish all of these. If it establishes any one of these, it establishes its case.

The Court. I so charge.

Mr. Smith. I ask your honor to charge the jury, if the jury find that this catsup so seized contained as much as 8 per cent of decomposed matter, such as rotted tomatoes, they may find that the statute is violated.

The Court. I so charge, gentlemen, only, however, if you reach the conclusions that by 8 per cent present, there is present a substantial amount of the mold, which in your judgment brings it within the prohibition of law.

Mr. Gilpatric. I take an exception to that, if your honor please. If your honor please, I desire to except to so much of your charge in charging the claimant's second request to charge as referred to the presence of yeast and spores, and my exception is on the ground that that is not relevant to the case here, as the whole point of the Government's contention is the presence of rot as indicated by mold.

The Court. I am very willing to have that taken out. Very well; by consent that will be eliminated and the only question for you to have in mind is the presence or absence of mold.

Mr. Smith. Of course, what your honor charged as to the manner in which the Government experts testified is to be treated as well to the claimant's expert.

The Court. It does, gentlemen.

The jury thereupon retired, and after due deliberation, returned into court with a verdict for the claimant.

Carl Vrooman,
Acting Secretary of Agriculture.

6193. Adulteration and misbranding of acetanilid, calomel, quinine sulphate, salol, sodium salicylate, elixir iron pyro-phosphate, quinine and strychnine, and hydriodic acid. U. S. * * * v. Direct Sales Co., a corporation. Plea of guilty. Fine, $700. (F. & D. No. 8596. I. S. Nos. 6901-p, 6902-p, 6904-p, 6905-p, 6906-p, 6909-p, 6911-p.)

On February 5, 1918, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Direct Sales Co., a corporation, Buffalo, N. Y., alleging shipment by said company, on or about July 3, 1917, in violation of the Food and Drugs Act, from the State of New York into the State of Virginia, of quantities of articles labeled in part, "Acetenilide," "Calomel," "Quinine Sulphate," "Salol," "Sodium Salicylate," "Elixir Iron Pyro-Phosphate, Quinine, and Strychnine," and "Hydriodic Acid," which were adulterated and misbranded.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed the following results:

Acetanilid:
Acetanilid (grains per tablet)..... 1.61
Calomel:
Calomel (grain per tablet)..... .163
Quinine sulphate:
Quinine sulphate (grain per tablet)..... .63
Solal:
Salol (grains per tablet)..... 1.39
Sodium salicylate:
Sodium salicylate (grains per tablet)..... 2.32
Elixir iron pyrophosphate, quinine, and strychnine:
Sugar (grams in 1,000 mils) not more than 70.
Quinine sulphate (grams in 1,000 mils)..... 1.05
(grain per fluid ounce)..... .48
Saccharin: Present.
Hydriodic acid:
Hydriodic acid (gram per 100 mils)..... .548
(per cent)..... .45

Adulteration of the acetanilid was alleged in the information for the reason that it was sold as and for tablets each containing 2 grains of acetanilid, and its strength and purity fell below the professed standard and quality under which it was sold, in that each tablet did not contain 2 grains of acetanilid, but contained a less amount, to wit, 1.61 grains of acetanilid in each tablet.

Misbranding of the article was alleged for the reason that the statement, "Acetanilide 2 grains," borne on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that each of said tablets contained 2 grains of acetanilid, whereas, in truth and in fact, each did not, but contained a less amount, to wit, approximately 1.61 grains of acetanilid.

Adulteration of the calomel was alleged for the reason that it was sold as and for tablets, each containing $\frac{1}{4}$ grain of calomel, and its strength and purity fell below the professed standard and quality under which it was sold, in that each tablet did not contain $\frac{1}{4}$ grain of calomel, but contained a less amount, to wit, 0.163 grain of calomel in each tablet.

Misbranding of the article was alleged for the reason that the statement, "500 Tablets calomel $\frac{1}{4}$ Grain," appearing on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that each tablet contained $\frac{1}{4}$ grain of calomel, whereas, in truth and in fact, each did not, but contained a less amount, to wit, 0.163 grain of calomel.

Adulteration of the quinine sulphate was alleged for the reason that it was sold as and for tablets, each containing 1 grain of quinine sulphate, and its strength and purity fell below the professed standard and quality under which it was sold in that each tablet did not contain 1 grain of quinine sulphate, but contained a less amount, to wit, 0.63 grain of quinine sulphate in each tablet.

Misbranding of the article was alleged for the reason that the statement, "500 Tablets Quinine Sulphate 1 Grain," appearing on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that each tablet contained 1 grain of quinine sulphate, whereas, in truth and in fact, each did not, but contained a less amount, to wit, 0.63 grain of quinine sulphate.

Adulteration of the salol was alleged for the reason that it was sold as and for tablets, each containing 2½ grains of salol, and its strength and purity fell below the professed standard and quality under which it was sold in that each tablet did not contain 2½ grains of salol, but contained a less amount, to wit, 1.39 grains of salol in each tablet.

Misbranding of the article was alleged for the reason that the statement, "500 Tablets Salol 2½ Grains," appearing on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that each tablet contained 2½ grains of salol, whereas, in truth and in fact, each did not, but contained a less amount, to wit, 1.39 grains of salol in each tablet.

Adulteration of the sodium salicylate was alleged for the reason that it was sold as and for tablets each containing 5 grains of sodium salicylate, and its strength and purity fell below the professed standard and quality under which it was sold in that each tablet did not contain 5 grains of sodium salicylate, but contained a less amount, to wit, 2.32 grains of sodium salicylate in each tablet.

Misbranding of the article was alleged for the reason that the statement, "500 Tablets Sodium Salicylate 5 Grains," borne on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that each tablet contained 5 grains of sodium salicylate, whereas, in truth and in fact, each did not, but contained a less amount, to wit, 2.32 grains of sodium salicylate in each tablet.

Adulteration of the elixir iron pyrophosphate, quinine, and strychnine was alleged for the reason that it was sold under and by a name recognized in the National Formulary and differed from the standard of strength, quality, and purity as determined by the test laid down in said National Formulary, official at the time of the investigation of the article, in that said National Formulary provides that in 1,000 mils of the article there shall be 8.75 grams of quinine sulphate, whereas said article did not contain 8.75 grams of quinine sulphate in 1,000 mils of the article, but contained a less amount, to wit, quinine equivalent to 1.05 grams of quinine sulphate in 1,000 mils, and in that said National Formulary provides that in 1,000 mils of the article there shall be 375 mils of sirup equivalent to 319 grams of sugar, whereas said article did not contain 319 grams of sugar, but contained a less amount, to wit, 70 grams of sugar in 1,000 mils of the article, and further in that the article contained saccharin, which is not a normal ingredient of the product as determined by the test laid down in said National Formulary.

Misbranding of the article was alleged for the reason that the statement, "Each Fluid Ounce Contains * * * Quinine Sulphate 4 Gr.," borne on the label, regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained 4 grains of quinine sulphate in each fluid ounce, whereas, in truth and in fact, it did not, but contained a less amount, to wit, quinine equivalent to 0.48 grain of quinine sulphate per fluid ounce.

Adulteration of the hydriodic acid was alleged for the reason that it was sold under and by a name recognized in the United States Pharmacopœia, and differed from the

standard of strength, quality, and purity as determined by the test laid down in said Pharmacopœia, official at the time of the investigation of the article, in that said Pharmacopœia provides that 100 mils of sirup of hydriodic acid shall contain not less than 1.3 grams of hydriodic acid, whereas, in truth and in fact, it did not contain 1.3 grams of hydriodic acid in 100 mils of the article, but contained a less amount, to wit, 0.548 gram of hydriodic acid in 100 mils of the article.

Misbranding of the article was alleged for the reason that the statement, "One Pint Syrup Hydriodic Acid (U. S. P.) (1% Absolute H. I.)," borne on the label regarding the article and the ingredients and substances contained therein, was false and misleading in that it represented that the article contained 1 per cent of hydriodic acid, whereas, in truth and in fact, it did not, but contained a less amount, to wit, 0.45 per cent of hydriodic acid.

On March 12, 1918, the defendant company entered a plea of guilty to the information, and on April 1, 1918, the court imposed a fine of $700. Upon the question as to the penalty to be imposed the following decision was rendered by the court (Hazel, *D. J.*):

The information in 14 counts charges the misbranding and adulteration, in violation of the Food and Drugs Act, of each of seven different medicines (acetanilid; calomel; quinine sulphate; salol; sodium salicylate; elixir iron pyro-phosphate, quinine, and strychnine; and hydriodic acid) contained in a single shipment from Buffalo, N. Y., to East Falls Church, Va. Defendant company pleaded guilty, as charged in the indictment, and the question presented is as to the penalty to be imposed, defendant's counsel contending that but one offense is charged and that there should therefore be imposed only a single penalty.

Section 2 of the act in question makes it an offense to transport in interstate commerce any article of food or drugs which is adulterated, stating that:

"Any person who shall ship * * * any such article so adulterated or misbranded * * * shall be guilty of a misdemeanor and for such an offense be fined not exceeding $200 for the first offense, and upon conviction for each subsequent offense not exceeding $300 or be imprisoned not exceeding one year, or both, at the discretion of the court."

According to this, the article is clearly specified as the unit of the offense, as distinguished from the shipment, and as there were seven different articles in the shipment and each was both adulterated and misbranded, it would seem that there were 14 separate and distinct violations of the act, for which separate penalties may be imposed. This is the view, I think, quite generally adopted in other Federal districts. The brief of the United States attorney directs attention to a number of cases in other districts in which separate penalties were imposed on different counts of information charging a single shipment of misbranded and adulterated articles. Here the various offenses charged are such that not only is a deception as to money value practiced upon the purchaser, but also as to medicinal value, which may be injurious to the health of the user. The intent undoubtedly was to consider each misbranding and adulteration of an article a violation of the statute, regardless of the number of articles contained in any one shipment.

In opposing the imposition of a penalty in excess of $200, counsel cites Byrne on Criminal Procedure, section 357, to show that separate offenses committed at one and the same time are inspired by one criminal intent and that therefore but one punishment may be imposed; but I think that rule does not strictly apply, as the statute specifically designates the articles as the item, the transportation of which is prohibited. The imposition of a penalty in excess of $200 would not be the imposition of a penalty for a subsequent offense. Each bottle comprised in the shipment contained a different article and the misbranding and adulteration constituted concurrent offenses. The provision for different punishment for subsequent offenses was made in contemplation of violation of the statute subsequent to conviction for similar violations.

A fine of $50 is imposed on each count, amounting in the aggregate to $700.

CARL VROOMAN,
Acting Secretary of Agriculture.

6194. Adulteration of sardines. U. S. * * * v. 200 Cases * * * of Sardines. Consent decree of condemnation and forfeiture. Good portion ordered released on bond. Unfit portion ordered destroyed. (F. & D. No. 8622. I. S. No. 2648-P. S. No. E-929.)

On November 30, 1917, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 200 cases of sardines, labeled in part, "Leader Brand Sardines * * * Packed by the Union Sardine Company, Lubec, Maine," consigned by the Union Sardine Co., Lubec, Me., remaining unsold in the original unbroken packages at Butler, Pa., alleging that the article had been shipped on or about November 11, 1917, and transported from the State of Maine into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted of 44.5 per cent decomposed fish.

On February 5, 1918, the said Union Sardine Co., claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be surrendered to said claimant upon the payment of the costs of the proceedings and the execution of a bond in the sum of $500, in conformity with section 10 of the act, said product to be subject to salvage under the direction of a representative of this department, the portion found to be fit for human food to be released to said claimant and the portion found not fit for human food to be destroyed.

CARL VROOMAN,
Acting Secretary of Agriculture.

6195. Adulteration of sardines. U. S. * * * v. 50 Cases of Sardines. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 8632. I. S. No. 2647-p. S. No. E-939.)

On December 3, 1917, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel of information praying the seizure and condemnation of 50 cases of sardines, consigned by L. D. Clark & Son, Eastport, Me., remaining unsold in the original unbroken packages at Springfield, Mass., alleging that the article had been shipped and transported from the State of Maine into the State of Massachusetts, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Banquet Brand American Sardines. Packed at Eastport, Washington Co., Maine, by L. D. Clark & Son."

Adulteration of the article was alleged in the libel of information for the reason that it consisted in part of a filthy, putrid, and decomposed animal substance.

On March 29, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6196. Adulteration of tomato paste. U. S. * * * v. 18 Cases of Tomato Paste. Consent decree of condemnation, forfeiture, and destruction. (F. & D. No. 8636. I. S. No. 8741-p. S. No. C-769.)

On December 5, 1917, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 18 cases, each containing 120 cans of tomato paste, remaining in the original cases at Birmingham, Ala., alleging that the article had been shipped on October 21, 1917, by F. G. Favaloro & Sons, New Orleans, La., and transported from the State of Louisiana into the State of Alabama, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Cowboy Brand Tomato Paste."

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal or vegetable substance.

On April 22, 1918, the Central Canning Co. (Ltd.), claimant, New Orleans, La., having entered its appearance and made known to the court that it did not desire to resist a decree in the case, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6197. Adulteration of tomato paste. U. S. * * * v. 12 Cases of Tomato Paste. Consent decree of condemnation, forfeiture, and destruction. (F. & D. No. 8637. I. S. No. 8742-p. S. No. C-772.)

On December 6, 1917, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 12 cases, each containing 200 cans of tomato paste, remaining in the original cases at Birmingham, Ala., alleging that the article had been shipped on November 11, 1917, by F. G. Favaloro & Sons, New Orleans, La., and transported from the State of Louisiana into the State of Alabama, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Life Buoy Brand Tomato Paste."

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal or vegetable substance.

On April 22, 1918, the Central Canning Co. (Ltd.), claimant, New Orleans, La., having appeared, and made known to the court that it did not desire to resist a decree in the case, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6198. Adulteration of tomato paste. U. S. * * * v. 10 Cases of Tomato Paste. Consent decree of condemnation, forfeiture, and destruction. (F. & D. No. 8638. I. S. No. 8743-p. S. No. C-773.)

On December 6, 1917, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 10 cases, each containing 200 cans of tomato paste, remaining in the original cases at Birmingham, Ala., alleging that the article had been shipped on October 20, 1917, by Angelo Glorioso, New Orleans, La., and transported from the State of Louisiana into the State of Alabama, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Eagle Brand Tomato Paste * * * Packed by Central Canning Co. (Inc.), New Orleans, La."

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal or vegetable substance.

On April 22, 1918, the Central Canning Co. (Ltd.), claimant, New Orleans, La., having appeared, and having made known to the court that it did not desire to resist a decree in the case, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN,
Acting Secretary of Agriculture.

6199. Adulteration of sulphured oats. U. S. * * * v. 300 Sacks of Sulphured Oats. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 8651. I. S. No. 11904-p. S. No. C-779.)

On or about December 15, 1917, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 300 sacks of sulphured oats, remaining unsold in the original unbroken packages at Shreveport, La., alleging that the article had been shipped on or about November 30, 1917, by the Halliday Elevator Co., Cairo, Ill., and transported from the State of Illinois into the State of Louisiana, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that it contained a substance which had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, that is to say, that the oats contained 2 per cent of water.

On February 25, 1918, the said Halliday Elevator Co., claimant, having admitted that the article contained moisture in excess of 2 per cent, and it appearing that the oats might be renovated and dried out so as to conform to law and be used as food after having been so renovated and rebranded so as to conform to the facts and the law, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released to said claimant upon the payment of the costs of the proceedings and the execution of a bond in the sum of $500, in conformity with section 10 of the act.

CARL VROOMAN,
Acting Secretary of Agriculture.

6200. Adulteration of canned peaches. U. S. * * * v. 1,447 Cases of Canned Peaches. Consent decree of condemnation and forfeiture. Good portion ordered realeased on bond. Unfit portion ordered destroyed. (F. & D. Nos. 8656, 8679. I. S. Nos. 9530-p. 9531-p, 9533-p. S. No. C—780.)

On December 15, 1917, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 1,447 cases of canned peaches, remaining unsold in the original unbroken packages at Nashville, Tenn., alleging that the article had been shipped on or about August 25, 1917, and September 10, 1917, by A. J. Evans, Fort Valley, Ga., and transported from the State of Georgia into the State of Tennessee, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Setter Brand Pie Peaches" * * * Packed by A. J. Evans Canning Co., Fort Valley, Ga., or "Elberta Brand Pie Peaches, * * * Packed by Elberta Canning Co., Fort Valley, Ga."

Adulteration of the article in each shipment was alleged in the libel for the reason that it consisted in whole or in part of a filthy (dirty, gritty, and gummatous exudation) and decomposed substance.

On April 16, 1918, the said A. J. Evans, claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimant upon the payment of the costs of the proceedings and execution of a good and sufficient bond, in conformity with section 10 of the act, conditioned in part that the claimant might ship said peaches back to his canning factory at Fort Valley, Ga., in order that the product might be examined and sorted so as to preserve and make use of that portion which was fit for food.

CARL VROOMAN,
Acting Secretary of Agriculture.

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**Cases containing decisions of the courts or instructions to juries.*

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